

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF
ILLINOIS EASTERN DIVISION**

DAN McCONCHIE, in his official capacity as
Minority Leader of the Illinois Senate and
individually as a registered voter, *et al.*,

Plaintiffs,

V.

IAN K. LINNABARY, *et al.*,

Defendants.

Case No. 1:21-CV-03091

Circuit Judge Michael B. Brennan
Chief Judge Jon E. DeGuilio
Judge Robert M. Dow, Jr.

Three-Judge Court

Pursuant to 28 U.S.C. § 2284(a)

Magistrate Beth W. Jantz

**PLAINTIFFS' MOTION TO COMPEL LEADERSHIP DEFENDANTS
TO RESPOND TO CATEGORY 2 DISCOVERY REQUESTS**

Plaintiffs, Dan McConchie, in his official capacity as Minority Leader of the Illinois Senate and individually as a registered voter, Jim Durkin, in his official capacity as Minority Leader of the Illinois House of Representatives and individually as a registered voter, the Republican Caucus of the Illinois Senate, the Republican Caucus of the Illinois House of Representatives and the Illinois Republican Party (collectively, the “Plaintiffs”), hereby respectfully move pursuant to Fed. R. Civ. P. 37(a) and N.D. Ill. Local Rule 37.2 for entry of an Order compelling Defendants, Emanuel Christopher Welch, in his official capacity as Speaker of the Illinois House of Representatives, the Office of Speaker of the Illinois House of Representatives, Don Harmon, in his official capacity as President of the Illinois Senate, and the Office of the President of the Illinois Senate (collectively, “the Leadership Defendants”), to provide substantive responses to Plaintiffs’ Third Set of Interrogatories, Interrogatory No. 4, and Third Set of Requests for Production, Request Nos. 1, 3, 4 and 5, and to produce a privilege log.

In support of their motion to compel, Plaintiffs state as follows:

1. On September 2, 2021, the Three-Judge Panel directed Magistrate Judge Jantz to set discovery deadlines with the direction that expedited fact and expert discovery would proceed. *See* Dkt. No. 94. Thereafter, Magistrate Judge Jantz set forth a thorough and expedited schedule relating to discovery. Category No. 2 Discovery included any “expedited discovery to issue upon the filing of any amended complaints and corresponding answers.” These Category No. 2 Discovery requests were to be issued by October 19, 2021, with responses due by October 22, 2021 and extended by agreement to October 26, 2021. *See* Dkt. Nos. 123, 138. Any necessary motions to compel were ordered to be filed by November 2, 2021. *See* Dkt. No. 138. *Id.*

2. On October 19, 2021, Plaintiffs served the Leadership Defendants with their Third Set of Interrogatories and Third Set of Requests for Production related to Category 2 Discovery (collectively the “October 19 Discovery Requests”). **Exs. 1 and 2** respectively. On October 26, 2021 (after requesting an extension of time within which to respond), Leadership Defendants served their responses to the October 19 Discovery Requests, which provided no actual documents and consisted of nearly all objections to the Interrogatories. The next day, October 27, 2021, Plaintiffs and Leadership Defendants engaged in a telephonic meet and confer regarding the Leadership Defendants’ responses to the October 19 Discovery Requests.

3. During the October 27, 2021 meet and confer, a thorough discussion was held regarding the Plaintiffs’ request for any documents, formulas, codes and structured query language related to the disaggregation of precinct level election results to the block level. This information is necessary to make sure that both sides are using the same underlying numbers in the expert analysis and to ensure that the Three-Judge Panel has a standardized approach to disaggregation as part of the remedy phase of this litigation. As such, it is undisputed that this information is both

relevant to the claims and defenses in this litigation and proportional to the needs of this case. *BankDirect Cap. Fin., LLC v. Cap Premium Fin., Inc.*, 326 F.R.D. 171, 175 (N.D. Ill. 2018).

4. Leadership Defendants' counsel advised that they had already asked for such information and were told by their clients that they did not have documentation other than what was produced. It is important to note that Plaintiffs' counsel Phillip Luetkehans previously had numerous telephone conversations and email correspondence over the past six weeks with Leadership Defendants' counsel, Michael Kasper, wherein a discussion was held that the Leadership Defendants' consultant, Kimball Brace, had completed this disaggregation task based upon the past history of his doing this kind of disaggregation analysis both in the 2001 and 2011 redistricting cycles in Illinois and his continued involvement in Illinois in this redistricting cycle. *See Ex. 3*, Luetkehans correspondence to Kasper, dated October 7 and 10, 2021. Mr. Kasper advised on numerous occasions that he would inquire of Mr. Brace but that Mr. Brace had recently had a heart attack.

5. On October 28, 2021, Leadership Defendants' counsel, Heather Wier Vaught, advised that they had:

“requested Brace provide any documents, formulas, algorithms, etc. related to the disaggregation process in an effort to determine if there are documents responsive to your request, including formulas used to take the election data from precinct level down to block level. He has not responded, and as we have said before, we do not have any responsive documents. We will continue to attempt to reach him and try to get an answer.”

See October 28, 2021 correspondence from Ms. Vaught, **Ex. 4**.

6. Having not received any further response, Plaintiffs' counsel, Phillip Luetkehans, made a telephone call to Mr. Kasper trying to obtain the status of this information on the morning of November 1, 2021. No response was received from Mr. Kasper. Accordingly, Plaintiffs'

counsel sent correspondence to the Leadership Defendants' counsel the evening of November 1, 2021 asking for an update as to whether Mr. Brace had such information and when it would be produced (the "November 1 Correspondence"). **Ex. 5.**

7. At the time of this filing, no response has been received to either the November 1, 2021 call to Mr. Kasper or the November 1 Correspondence.

8. Below are more specific summaries of the October 19 Discovery Requests at issue herein:

Document Request No. 1 seeks, *inter alia*, the disaggregated election data "from the precinct level to the block level." The Leadership Defendants responded that Plaintiffs previously agreed that Leadership Defendants would not have to provide the actual data in "identical discovery requests." However, Plaintiffs are not asking for data that were already produced. The disaggregation asked for here is exactly what was previously sought in Plaintiffs' Category 1 request, which the parties previously agreed to defer as the Leadership Defendants stated that the amount of data requested was "overwhelming." See **Ex. 6**, Panoff correspondence dated September 22, 2021. Leadership Defendants also advised that they sent this information to Plaintiffs with the Category 1 discovery. Plaintiffs asked that if Leadership Defendants believe this disaggregated data was previously sent, that Leadership Defendant "please advise exactly where (they) provided this information and how it is labeled." **Ex. 5.** As of the filing of this Motion, no response has been provided.

Document Requests Nos. 3, 4 and 5 and Interrogatory No. 4 seeks in essence any formulas, codes, algorithms and/or SQL (structured query language) used for disaggregation. The Leadership Defendants stated that they were checking with Mr. Brace for this information. **Ex. 4.** On November 1, 2021, Plaintiffs' counsel, Phillip Luetkehans, again asked that Leadership Defendants' counsel "confirm this with your consultant Mr. Brace." **Ex. 5.** As of the filing of this Motion, no response has been provided. In relation to Document Request No. 4 specifically, Leadership Defendants stated that they have already produced documents responsive to this request. However, Plaintiffs can find no disaggregation data that has been produced. If Leadership Defendants believe this aggregation data was previously produced, then Leadership Defendants should advise exactly where they provided this information and how it is labelled. Leadership Defendants also objected to the fact that this Request is seeking information related only to partisan

gerrymandering. However, the counsel for the parties have had the discussion numerous times that the reason for needing this information is to properly determine how Leadership Defendants are disaggregating election data for the purposes of analyzing election results for Section 2 purposes, which is at the heart of the Second Amended Complaint.

WHEREFORE, for the reasons set forth above, Plaintiffs respectfully request that the Court issue an Order compelling the Leadership Defendants to timely provide substantive responses to Plaintiffs' Third Set of Interrogatories No. 4 and Plaintiffs' Third Set of Requests for Production Nos. 1, 3, 4 and 5.

Dated: November 2, 2021

s/ Phillip A. Luetkehans

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Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that on November 2, 2021, the foregoing document was electronically filed with the Clerk of the Court using the CM/ECF system, which will provide notice to all counsel of record in this matter.

/s/ Phillip A. Luetkehans
Phillip A. Luetkehans

EXHIBIT 1

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DAN McCONCHIE, in his official capacity as Minority Leader of the Illinois Senate and individually as a registered voter, JIM DURKIN, in his official capacity as Minority Leader of the Illinois House of Representatives and individually as a registered voter, JAMES RIVERA, ANNA DE LA TORRE, DOLORES DIAZ, FELIPE LUNA JR., SALVADOR TREMILLO, CHRISTOPHER ROMERO, the REPUBLICAN CAUCUS OF THE ILLINOIS SENATE, the REPUBLICAN CAUCUS OF THE ILLINOIS HOUSE OF REPRESENTATIVES, and the ILLINOIS REPUBLICAN PARTY,

Plaintiffs,

vs.

IAN K. LINNABARY, CASANDRA B. WATSON, WILLIAM J. CADIGAN, LAURA K. DONAHUE, CATHERINE S. McCRORY, WILLIAM M. McGUFFAGE, and RICK S. TERVEN, SR., in their official capacities as members of the Illinois State Board of Elections, EMANUEL CHRISTOPHER WELCH, in his official capacity as Speaker of the Illinois House of Representatives, the OFFICE OF SPEAKER OF THE ILLINOIS HOUSE OF REPRESENTATIVES, DON HARMON, in his official capacity as President of the Illinois Senate, and the OFFICE OF THE PRESIDENT OF THE ILLINOIS SENATE,

Defendants.

Case No. 1:21-cv-03091

Circuit Judge Michael B. Brennan
Chief District Judge Jon E. DeGuilio
District Judge Robert M. Dow, Jr.

Three-Judge Court
Pursuant to 28 U.S.C. § 2284(a)

Magistrate Beth W. Jantz

**PLAINTIFFS' THIRD REQUESTS FOR PRODUCTION
TO LEADERSHIP DEFENDANTS**

NOW COME Plaintiffs, DAN MCCONCHIE in his official capacity as Minority Leader of the Illinois Senate and individually as a registered voter and JIM DURKIN in his official capacity as Minority Leader of the Illinois House of Representatives and individually as a registered voter, the REPUBLICAN CAUCUS OF THE ILLINOIS SENATE, the REPUBLICAN CAUCUS OF THE ILLINOIS HOUSE OF REPRESENTATIVES, and the ILLINOIS REPUBLICAN PARTY, JAMES RIVERA, ANNA DE LA TORRE, DOLORES DIAZ, FELIPE LUNA JR., SALVADOR TREMILLO, CHRISTOPHER ROMERO, PLAINTIFFS JULIE CONTRERAS, IRVIN FUENTES, ABRAHAM MARTINEZ, IRENE PADILLA, AND ROSE TORRES (collectively “Plaintiffs”), by and through their attorneys, LUETKEHANS, BRADY, GARNER, & ARMSTRONG, LLC, MAYER BROWN, LLP, MEZA LAW, and CLARK HILL PLC, and pursuant to Federal Rule of Civil Procedure 34, request Defendants, EMANUEL CHRISTOPHER WELCH, in his official capacity as Speaker of the Illinois House of Representatives, the OFFICE OF SPEAKER OF THE ILLINOIS HOUSE OF REPRESENTATIVES, and DON HARMON, in his official capacity as President of the Illinois Senate, the OFFICE OF THE PRESIDENT OF THE ILLINOIS SENATE (collectively “Leadership Defendants”), produce the following documents for inspection and copying at the offices of LUETKEHANS, BRADY, GARNER, & ARMSTRONG, LLC, 105 E. Irving Park Road, Itasca, Illinois 60143, MAYER BROWN LLP, 71 S. Wacker Drive, Chicago, IL 60606, MEZA LAW, 161 N. Clark Street, Suite 1600, Chicago, IL 60601 and CLARK HILL PLC, 130 E. Randolph Street, Suite 3900, Chicago, IL 60601, by October 22, 2021 pursuant to the Court’s October 9, 2021 Order (Dkt. 123). Plaintiffs further request that said Leadership Defendants provide Affidavits stating whether production is complete.

DEFINITIONS

Each of the following definitions shall apply to all words, phrases and terms in the instructions, other definitions and description of documents to be produced.

1. “Document” is defined as all recorded material in whatever form, including, but not limited to reports, letters, memoranda, directives, notes, correspondence, contracts, agreements, leases, charts, graphs, manuals, videotapes, audiotapes, data compilations, electronic mail messages, voice mail messages, marketing materials, training materials, electronic data, all files containing computer code, computer programs in source and object code, corporate minutes, and material stored in any data or computer storage system. Document is also defined to require the production of documents, such as distribution lists, that identify the person (including their addresses and telephone numbers) who received the subject matter set forth in the individual specifications.
2. The term “identity” has the following meanings:
 - A. When used in reference to a natural person, it means to state his or her full name, his or her last residence, business address, and business telephone number last known employer, and a brief description of their function.
 - B. When referring to corporate or other identities, it means to set forth: (a) the entity’s name; (b) its present or last known address; (c) its principal place of business; and (d) the form or manner of its organization. Once a corporation or other entity has thus been identified, it shall be sufficient thereafter when identified that corporation or other entity to state its full name.
 - C. When used in reference to a communication, it means:
 - i. if such communication was oral, to identify the person speaking and the person spoken to, who else was present, and to state the date and

place of the communication and its substance; and/or

- ii. if such communication was contained in a document, to identify the document.

D. When used in reference to a document, it means to state the type of document (e.g., letter, email, chart, etc.) and to identify its authority, its intended recipients, its date and a summary of its contents. In lieu of identification of a document, the document may be provided to Plaintiffs.

- 3. The term “communication” means a transmittal of information, or request for information, by document or otherwise and includes any conversation in person, by telephone or by any other means, as well as any utterance heard by another person whether in person, by telephone or otherwise.
- 4. The word “and” and “or” shall mean “and/or.”
- 5. The term “relate to” means concerning, embodying, considering, mentioning, respecting, bearing on, referring to or addressed in whole or in part to that subject.
- 6. Words in the singular should be construed as including the plural, and plural words should be construed as including the singular.
- 7. The phrase “possession, custody or control” means to have physical possession, legal or effective control, or majority or joint ownership. This includes assets that are being held by another party on behalf of an individual or entity.
- 8. Unless otherwise specified, this requests all responsive information in your possession, custody or control applicable to the time period between January 1, 2018 and the date of your compliance with this request (the “relevant time period”) as well as any documents relating to such period even though created before that

period.

9. Information and materials sought by these requests for documents shall include information and materials within your knowledge, possession, custody or control, or within the knowledge, possession, custody or control of any of your agents, officers, employees, attorneys, or investigators (including investigators of an attorney), or any person acting as your representative or on your behalf, including, but not limited to, any otherwise independent attorney, accountant, or consultant.
10. The following rules of construction shall apply to these requests for production:
 - A. The words “you” and “your” shall be considered as referring to the entity named as the recipient of this Request to Produce and any other affiliated agency, unit, or department.
 - B. The singular form of a noun or pronoun shall be considered to include within its meaning the plural form of the noun or pronoun so used, and vice versa.
 - C. All present tenses of verbs or verb forms shall be considered to include within their meaning the future and past tense so used, and vice versa.
 - D. The words “or” or “and” are inclusive, referring to any one or more of the disjoined words or phrases, and “any” and “all” also include “each” and “every.”
 - E. The masculine gender shall be deemed to include the feminine.
11. All documents are to be in their original form, and are to include all marginalia and post-its, as well as any attachments referred to or incorporated by the document. In lieu of providing the original of any document below, you may provide a

“duplicate” of such document within the meaning of Rule 1001(e) of the Federal Rules of Evidence. If a document’s original form was electronic, you must produce it electronically, preserving all information regarding the document (e.g., its creation and modification dates, its location within a storage device’s file structure, etc.)

12. For each document or part thereof that is not produced on the ground that it contains privileged information, please provide a privilege log wherein you identify the type of document being withheld (e.g., letter, memorandum, handwritten notes, marginalia, etc.), a description of its contents, its author(s), all actual and intended recipients of the document, its date, and the specific privilege being asserted, all with sufficient particularity so as to allow a court, to assess the validity of the claim of privilege.
13. If you at any time had possession or control of a document called for under a request for production, and if such document has been lost, destroyed, or is not presently in your possession or control, you shall describe the document, the date of its loss, destruction, purge or separation from possession or control, and the circumstances surrounding its loss, destruction, purge, or separation from possession or control.
14. The term “August Map” means Senate Bill 927 passed by the House and Senate on August 31, 2021 which established Representative Districts and Legislative Districts for the State of Illinois.
15. The term “Disaggregation Process,” “disaggregation,” or “disaggregate” shall include any possible method of assigning persons from one Census geographic unit to another (i.e., block group to block) and shall include any disaggregation,

reaggregation, and reallocation.

16. The term “minority” means a racial or ethnic group other than white.
17. The term “external data” means data other than that provided pursuant to P.L. 994-171.

DOCUMENTS TO BE PRODUCED

1. All election data for each election year that you disaggregated from the precinct level to the block level.
2. All external data used during the disaggregation of election data from the precinct level to the block level.
3. Any formulas used for disaggregating election data from the precinct level to the block level.
4. Any formula, code, algorithm or underlying data created, reviewed or otherwise used in the disaggregation of election results from precinct level to block level in the August Map.
5. Any SQL (structured query language) queries for each disaggregation done using a database.
6. Any Documents that support or relate to your First Affirmative Defense.
7. Any Documents you support or relate to your Second Affirmative Defense.
8. Any Documents you support or relate to your Third Affirmative Defense.
9. Any Documents identified in your Answers to the McConchie Plaintiffs’ Third Set of Interrogatories.
10. Any Documents that you intend to rely on for purposes of a motion for summary judgment that have not already been produced by you in this litigation.
11. Any Documents that you intend to rely on for purposes of trial that have not already been produced by you in this litigation.

Dated: October 19, 2021

s/ Phillip A. Luetkehans

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EXHIBIT 2

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DAN McCONCHIE, in his official capacity as Minority Leader of the Illinois Senate and individually as a registered voter, JIM DURKIN, in his official capacity as Minority Leader of the Illinois House of Representatives and individually as a registered voter, JAMES RIVERA, ANNA DE LA TORRE, DOLORES DIAZ, FELIPE LUNA JR., SALVADOR TREMILLO, CHRISTOPHER ROMERO, the REPUBLICAN CAUCUS OF THE ILLINOIS SENATE, the REPUBLICAN CAUCUS OF THE ILLINOIS HOUSE OF REPRESENTATIVES, and the ILLINOIS REPUBLICAN PARTY,

Plaintiffs,

vs.

IAN K. LINNABARY, CASANDRA B. WATSON, WILLIAM J. CADIGAN, LAURA K. DONAHUE, CATHERINE S. McCRORY, WILLIAM M. McGUFFAGE, and RICK S. TERVEN, SR., in their official capacities as members of the Illinois State Board of Elections, EMANUEL CHRISTOPHER WELCH, in his official capacity as Speaker of the Illinois House of Representatives, the OFFICE OF SPEAKER OF THE ILLINOIS HOUSE OF REPRESENTATIVES, DON HARMON, in his official capacity as President of the Illinois Senate, and the OFFICE OF THE PRESIDENT OF THE ILLINOIS SENATE,

Defendants.

Case No. 1:21-cv-03091

Circuit Judge Michael B. Brennan
Chief District Judge Jon E. DeGuilio
District Judge Robert M. Dow, Jr.

Three-Judge Court
Pursuant to 28 U.S.C. § 2284(a)

Magistrate Beth W. Jantz

**PLAINTIFFS' THIRD SET OF INTERROGATORIES
TO LEADERSHIP DEFENDANTS**

NOW COME Plaintiffs, DAN MCCONCHIE in his official capacity as Minority Leader of the Illinois Senate and individually as a registered voter and JIM DURKIN in his official capacity as Minority Leader of the Illinois House of Representatives and individually as a registered voter, the REPUBLICAN CAUCUS OF THE ILLINOIS SENATE, the REPUBLICAN CAUCUS OF THE ILLINOIS HOUSE OF REPRESENTATIVES, and the ILLINOIS REPUBLICAN PARTY, JAMES RIVERA, ANNA DE LA TORRE, DOLORES DIAZ, FELIPE LUNA JR., SALVADOR TREMILLO, CHRISTOPHER ROMERO, PLAINTIFFS JULIE CONTRERAS, IRVIN FUENTES, ABRAHAM MARTINEZ, IRENE PADILLA, AND ROSE TORRES (collectively “Plaintiffs”), by and through their attorneys, LUETKEHANS, BRADY, GARNER, & ARMSTRONG, LLC, MAYER BROWN, LLP, MEZA LAW, and CLARK HILL PLC, pursuant to Federal Rule of Civil Procedure 33, propounds the following interrogatories upon Defendants, EMANUEL CHRISTOPHER WELCH, in his official capacity as Speaker of the Illinois House of Representatives, the OFFICE OF SPEAKER OF THE ILLINOIS HOUSE OF REPRESENTATIVES, and DON HARMON, in his official capacity as President of the Illinois Senate, the OFFICE OF THE PRESIDENT OF THE ILLINOIS SENATE (collectively “Leadership Defendants”), to be answered in writing and under oath by October 22, 2021 pursuant to the Court’s October 9, 2021 Order (Dkt. 123).

DEFINITIONS

Each of the following definitions shall apply to all words, phrases and terms in the instructions, other definitions and description of documents to be produced.

1. “Document” is defined as all recorded material in whatever form, including, but not limited to reports, letters, memoranda, directives, notes, correspondence, contracts, agreements, leases, charts, graphs, manuals, videotapes, audiotapes, data compilations, electronic mail messages, voice mail messages, marketing materials,

training materials, electronic data, computer programs in source and object code, corporate minutes, and material stored in any data or computer storage system. Document is also defined to require the production of documents, such as distribution lists, that identify the person (including their addresses and telephone numbers) who received the subject matter set forth in the individual specifications.

2. The term “identity” has the following meanings:
 - A. When used in reference to a natural person, it means to state his or her full name, his or her last residence, business address, and business telephone number last known employer, and a brief description of their function.
 - B. When referring to corporate or other identities, it means to set forth: (a) the entity’s name; (b) its present or last known address; (c) its principal place of business; and (d) the form or manner of its organization. Once a corporation or other entity has thus been identified, it shall be sufficient thereafter when identified that corporation or other entity to state its full name.
 - C. When used in reference to a communication, it means:
 - i. if such communication was oral, to identify the person speaking and the person spoken to, who else was present, and to state the date and place of the communication and its substance;
 - ii. if such communication was contained in a document, to identify the document.
 - D. When used in reference to a document, it means to state the type of document (e.g., letter, email, chart, etc.) and to identify its authority, its intended recipients, its date and a summary of its contents. In lieu of identification of a document, the document may be provided to Plaintiffs.
3. The term “communication” means a transmittal of information, or request for information, by document or otherwise and includes any conversation in person, by

telephone or by any other means, as well as any utterance heard by another person whether in person, by telephone or otherwise.

4. The term “entity” means an individual, corporation, partnership, proprietorship, professional corporation, association, group, governmental agency or agent, municipal corporation, state government, local government, political subdivision, or any other legal entity of any kind, whether for profit or not for profit.
5. The word “and” and “or” shall mean “and/or.”
6. The term “relate to” means concerning, embodying, considering, mentioning, respecting, bearing on, referring to or addressed in whole or in part to that subject.
7. The term “affiliated” shall mean any form of business relationship, including, but not limited to, employee, director, officer, owner, agent, consultant, or contractor.
8. Words in the singular should be construed as including the plural, and plural words should be construed as including the singular.
9. The following rules of construction shall apply to these Interrogatories:
 - A. The words “you” and “your” shall be considered as referring to the entity named as the recipient of this Request to Produce and any other affiliated agency, unit, or department.
 - B. The singular form of a noun or pronoun shall be considered to include within its meaning the plural form of the noun or pronoun so used, and vice versa.
 - C. All present tenses of verbs or verb forms shall be considered to include within their meaning the future and past tense so used, and vice versa
 - D. The words “or” or “and” are inclusive, referring to any one or more of the disjoined words or phrases, and “any” and “all” also include “each” and “every.”
 - E. The masculine gender shall be deemed to include the feminine.

10. The term “August Map” means Senate Bill 927 passed by the House and Senate on August 31, 2021 which established Representative Districts and Legislative Districts for the State of Illinois.
11. The term “Disaggregation Process,” “disaggregation,” or “disaggregate” shall include any possible method of assigning persons from one Census geographic unit to another (i.e., block group to block) and shall include any disaggregation, reaggregation, and reallocation.

INTERROGATORIES

1. Identify all facts, circumstances and documents which you contend support or relate to your First Affirmative Defense.
2. Identify all facts, circumstances and documents which you contend support or relate to your Second Affirmative Defense.
3. Identify all facts, circumstances and documents which you contend support or relate to your Third Affirmative Defense.
4. Provide the formula, code, algorithm and/or SQL (structured query language) query used in the disaggregation of election results from precinct level to block level related to the August Map.

Dated: October 19, 2021

s/ Phillip A. Luetkehans
Phillip A. Luetkehans
Brian J. Armstrong
Jessica G. Nosalski
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Counsel for Plaintiffs Dan McConchie, in his

/s/ Charles E. Harris, II
Charles E. Harris, II
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capacity as Minority Leader of the Illinois Senate and individually as a registered voter, Jim Durkin, in his official capacity as Minority Leader of the Illinois House of Representatives and individually as a registered voter, James Rivera, Anna De La Torre, Dolores Diaz, Felipe Luna Jr., Salvador Tremillo, Christopher Romero, the Republican Caucus of the Illinois Senate, and the Republican Caucus of the Illinois House of Representatives

/s/ Ricardo Meza

Ricardo Meza

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Counsel for Plaintiffs Dan McConchie, in his capacity as Minority Leader of the Illinois Senate and individually as a registered voter, Jim Durkin, in his official capacity as Minority Leader of the Illinois House of Representatives and individually as a registered voter, James Rivera, Anna De La Torre, Dolores Diaz, Felipe Luna Jr., Salvador Tremillo, Christopher Romero, the Republican Caucus of the Illinois Senate, and the Republican Caucus of the Illinois House of Representatives

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Counsel for Plaintiffs Dan McConchie, in his capacity as Minority Leader of the Illinois Senate and individually as a registered voter, Jim Durkin, in his official capacity as Minority Leader of the Illinois House of Representatives and individually as a registered voter, James Rivera, Anna De La Torre, Dolores Diaz, Felipe Luna Jr., Salvador Tremillo, Christopher Romero, the Republican Caucus of the Illinois Senate, and the Republican Caucus of the Illinois House of Representatives

/s/ John G. Fogarty

John G. Fogarty

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130 E. Randolph St., Suite 3900

Chicago, Illinois 60601

Tel: (312) 985-5900

jfogarty@clarkhill.com

Counsel for Plaintiff, Illinois Republican Party

EXHIBIT 3

Phil Luetkehans

From: Phil Luetkehans
Sent: Sunday, October 10, 2021 2:31 PM
To: mjkkasper60@mac.com
Subject: RE: Brace Disaggregation

Mike,

Just checking to make sure you saw this. We should probably also follow up in next couple of days about our conversation regarding depositions.

Let me know what might work for you. Tomorrow is pretty packed so maybe Tuesday sometime?

Thanks,

Phil



Phillip A. Luetkehans
Principal
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LUETKEHANS, BRADY, GARNER & ARMSTRONG, LLC

From: Phil Luetkehans
Sent: Thursday, October 07, 2021 9:22 PM
To: Mike Kasper <mjkkasper60@mac.com>
Subject: Brace Disaggregation

Mike,

Per our conversation, please provide the below information from Kim Brace, all of which I am pretty sure he already has and can provide to us pretty easily. These are the interrogatories we deferred. Any questions, please give me a call.

Thanks,

Phil

2. Provide the election data for each election year that you disaggregated from the precinct level to the block level.
3. Provide any external data used during the disaggregation of election data from the precinct level to the block level.
4. Provide the formula used for disaggregating election data from the precinct level to the block level.
11. Provide the formula, code, algorithm or underlying data created, reviewed or otherwise used in the disaggregation of election results from precinct level to block level in the August Map.
16. Provide the SQL (structured query language) query for each disaggregation done using a database



Phillip A. Luetkehans

Principal

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Phil Luetkehans

From: Phil Luetkehans
Sent: Thursday, October 07, 2021 9:26 PM
To: mjkasper60@mac.com
Subject: RE: Brace Disaggregation

My apologies those were from the First Request for Production, not the Interrogatories. Too late at night for me. :)



Phillip A. Luetkehans
Principal
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From: Phil Luetkehans
Sent: Thursday, October 7, 2021 9:22 PM
To: Mike Kasper <mjkasper60@mac.com>
Subject: Brace Disaggregation

Mike,

Per our conversation, please provide the below information from Kim Brace, all of which I am pretty sure he already has and can provide to us pretty easily. These are the interrogatories we deferred. Any questions, please give me a call.

Thanks,

Phil

2. Provide the election data for each election year that you disaggregated from the precinct level to the block level.

3. Provide any external data used during the disaggregation of election data from the precinct level to the block level.

4. Provide the formula used for disaggregating election data from the precinct level to the block level.
11. Provide the formula, code, algorithm or underlying data created, reviewed or otherwise used in the disaggregation of election results from precinct level to block level in the August Map.
16. Provide the SQL (structured query language) query for each disaggregation done using a database



Phillip A. Luetkehans

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EXHIBIT 4

From: [Heather Wier Vaught](#)
To: [Phil Luetkehans](#); [Ernest Herrera](#); [Joe Greenbaum](#); [Ezra Rosenberg](#); [Jim Tucker](#); [Ryan Snow](#); [Neel Chablani](#); [Ami Gandhi](#); [Cliff Helm](#); [jdrayton@cooley.com](#); [mkutcher@cooley.com](#); [ewright@cooley.com](#); [zillinoisredistrictingexternal@cooley.com](#); [Elizabeth.Yandell@lw.com](#); [Adam Vaught](#); [Michael Kasper](#); [Devon C. Bruce](#); [sean.berkowitz@lw.com](#); [Colleen.Smith@lw.com](#); [Jessica Nosalski](#); [Debra Anderson](#); [sdalton@powerrogers.com](#); [mary.johnston@illinois.gov](#); [nrgilbert@winston.com](#); [charris@mayerbrown.com](#); [mholzrichter@mayerbrown.com](#); [tpanoff@mayerbrown.com](#); [Ccomstock@mayerbrown.com](#); [hweiner@mayerbrown.com](#); [cknight@mayerbrown.com](#); [jblackhurst@mayerbrown.com](#); [rmeza@meza.law](#); [jfogarty@clarkhill.com](#); [Thomas A. Saenz](#); [Francisco Fernandez-del Castillo](#); [Griselda Vega Samuel](#); [Brian Armstrong](#)
Subject: Re: McConchie, Contreras, NAACP, Legislative defendants, SBE defendants
Date: Thursday, October 28, 2021 10:36:05 PM

During yesterday's meet and confer we indicated we would get back to you on the following:

1. We confirmed the previous searches included documents/communications between the legislative leaders' staff and staff for Sen Landek or Rep Zalewski. Any relevant, non-privileged documents were included in the production and any privileged documents would be on the privilege log.
2. Again we requested Brace provide any documents, formulas, algorithms, etc. related to the disaggregation process in an effort to determine if there are documents responsive to your request, including formulas used to take the election data from precinct level down to block level. He has not responded, and as we have said before, we do not have any responsive documents. We will continue to attempt to reach him and try to get an answer.
3. The dates/times for depositions were emailed yesterday. Phil/Ernest, apologies for leaving you off the email (no idea how that happened). Please let us know when will share any exhibits for the depositions.

Thank you,

Heather
815-762-2629

From: Heather Wier Vaught <heather@wiervaught.com>
Date: Thursday, October 28, 2021 at 9:49 PM
To: Joe Greenbaum <jgreenbaum@lawyerscommittee.org>, Ezra Rosenberg <erosenberg@lawyerscommittee.org>, Jim Tucker <jtucker@lawyerscommittee.org>, Ryan Snow <rsnow@lawyerscommittee.org>, Neel Chablani <achablani@clccrul.org>, Ami Gandhi <agandhi@clccrul.org>, Cliff Helm <chelm@clccrul.org>, <jdrayton@cooley.com>, <mkutcher@cooley.com>, <ewright@cooley.com>, <zillinoisredistrictingexternal@cooley.com>, "Elizabeth.Yandell@lw.com" <Elizabeth.Yandell@lw.com>, Adam Vaught <avaught@hinshawlaw.com>, Michael Kasper <mjkasper60@mac.com>, "Devon C. Bruce" <dbruce@powerrogers.com>, "sean.berkowitz@lw.com" <sean.berkowitz@lw.com>, "Colleen.Smith@lw.com" <Colleen.Smith@lw.com>, Jessica Nosalski <JGN@LBGALAW.COM>, Debra Anderson <daa@lbgalaw.com>, "sdalton@powerrogers.com" <sdalton@powerrogers.com>,

EXHIBIT 5

From: [Phil Luetkehans](#)
To: [Heather Wier Vaught](#); [Ernest Herrera](#); [Joe Greenbaum](#); [Ezra Rosenberg](#); [Jim Tucker](#); [Ryan Snow](#); [Neel Chhabani](#); [Ami Gandhi](#); [Cliff Helm](#); [jdrayton@cooley.com](#); [mkutcher@cooley.com](#); [ewright@cooley.com](#); [zillinoisredistrictingexternal@cooley.com](#); [Elizabeth.Yandell@lw.com](#); [Adam Vaught](#); [Michael Kasper](#); [Devon C. Bruce](#); [sean.berkowitz@lw.com](#); [Colleen.Smith@lw.com](#); [Jessica Nosalski](#); [Debra Anderson](#); [sdalton@powerrogers.com](#); [mary.johnston@illinois.gov](#); [nrgilbert@winston.com](#); [charris@mayerbrown.com](#); [mholzrichter@mayerbrown.com](#); [tpanoff@mayerbrown.com](#); [Ccomstock@mayerbrown.com](#); [hweiner@mayerbrown.com](#); [cknight@mayerbrown.com](#); [jblackhurst@mayerbrown.com](#); [rmeza@meza.law](#); [ifogarty@clarkhill.com](#); [Thomas A. Saenz](#); [Francisco Fernandez-del Castillo](#); [Griselda Vega Samuel](#); [Brian Armstrong](#)
Subject: RE: McConchie, Contreras, NAACP, Legislative defendants, SBE defendants
Date: Monday, November 1, 2021 8:28:38 PM
Attachments: [image002.png](#)

As you know, on October 19, 2021, we served the Leadership Defendants with our Third Set of Requests for Production and Third Set of Interrogatories (the "October 19, Discovery Requests"). Production Requests 1-5 and Interrogatory Request Number 4 are almost identical to those requests served on July 12, 2021. At the time, you said the data sought was too overwhelming to respond to with the July 12 Discovery, and we agreed to defer those particular discovery requests to the time for you to answer Category 3 requests. However, you advised that you would not respond until the time for Category 2 responses. In our second set of discovery requests, we reiterated our demand for this information but you again provided no responsive documents. Accordingly, we served the October 19 Discovery Requests, and you asked for additional time to provide your responses.

When your responses to the October 19 Discovery Requests finally came on October 16, we received no further documents or data and your answer to the Interrogatory was that you did "not possess or have information" responsive. As to the Document Request and Interrogatory information, you advised in the "meet and confer" that occurred on October 27, 2021, that you would check again with Mr. Kimball Brace as to whether the information and documents we sought existed. You confirmed the next day that you had not been able to reach Mr. Brace to determine if any such information exists.

Please advise immediately if Mr. Brace has such information and when you will provide it. Further I think it is appropriate to discuss some of the October 19 Discovery Requests individually:

1. Document Request No. 1 – you state that we previously agreed that you would not have to provide the actual data in "identical discovery requests." That is not accurate, as the disaggregation asked for here is exactly what we previously agreed to defer. Please produce these files within 48 hours. If you think you provided disaggregated data of this type, please advise exactly where you provided this information and how it is labeled.
2. Document Request No. 3 and Interrogatory No. 4 – you state that you do not have any formulas, codes, algorithms and/or SQL (structured query language) used for disaggregation. While I highly doubt this, I asked that you confirm this with your consultant Mr. Brace, and we are still waiting for a formal update on this.
3. Document Request No. 4 – you state that you have already produced documents responsive to this request; however, you understand from my many conversations and emails with you and Mr. Kasper that we are seeking the disaggregation data that you have in your possession – none of which has been produced. You also object to the fact that this Request is seeking

information related only to partisan gerrymandering. However, we have also had the discussion numerous times that the reason for needing this information is to properly determine how you disaggregated election results for the purposes of analyzing election results for both sides Section 2 analysis.

To be clear, this is the exact same information that I have been advised by Mr. Kasper on several occasions over the past two months that he would provide us. At no time, was I told by him that this information did not exist.

However, we have not received any further information since your email on October 28, wherein you state that Mr. Brace has not responded to your requests for this information. I called Mr. Kasper this morning to discuss this matter but have not received the courtesy of a return phone call. Please advise the status as we have tried to be patient but our Motion to Compel is due on this issue at noon tomorrow.

Thank you,

Phil



Phillip A. Luetkehans
Principal
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From: Heather Wier Vaught <heather@wiervaught.com>

Sent: Thursday, October 28, 2021 10:36 PM

To: Phil Luetkehans <pal@lbgalaw.com>; Ernest Herrera <eherrera@MALDEF.org>; Joe Greenbaum <jgreenbaum@lawyerscommittee.org>; Ezra Rosenberg <erosenberg@lawyerscommittee.org>; Jim Tucker <jtucker@lawyerscommittee.org>; Ryan Snow <rsnow@lawyerscommittee.org>; Neel Chablani <achablani@clccrul.org>; Ami Gandhi <agandhi@clccrul.org>; Cliff Helm <chelm@clccrul.org>; jdrayton@cooley.com; mkutcher@cooley.com; ewright@cooley.com; zillinoisredistrictingexternal@cooley.com; Elizabeth.Yandell@lw.com; Adam Vaught

<avaught@hinshawlaw.com>; Michael Kasper <mjkasper60@mac.com>; Devon C. Bruce <dbruce@powerrogers.com>; sean.berkowitz@lw.com; Colleen.Smith@lw.com; Jessica Nosalski <JGN@LBGALAW.COM>; Debra Anderson <daa@lbgalaw.com>; sdalton@powerrogers.com; mary.johnston@illinois.gov; nrgilbert@winston.com; charris@mayerbrown.com; mholzrichter@mayerbrown.com; tpanoff@mayerbrown.com; Ccomstock@mayerbrown.com; hweiner@mayerbrown.com; cknight@mayerbrown.com; jblackhurst@mayerbrown.com; rmeza@meza.law; jfogarty@clarkhill.com; Thomas A. Saenz <tsaenz@maldef.org>; Francisco Fernandez-del Castillo <FFernandez-delCastillo@maldef.org>; Griselda Vega Samuel <Gvegasamuel@maldef.org>; Brian Armstrong <bja@lbgalaw.com>

Subject: Re: McConchie, Contreras, NAACP, Legislative defendants, SBE defendants

During yesterday's meet and confer we indicated we would get back to you on the following:

1. We confirmed the previous searches included documents/communications between the legislative leaders' staff and staff for Sen Landek or Rep Zalewski. Any relevant, non-privileged documents were included in the production and any privileged documents would be on the privilege log.
2. Again we requested Brace provide any documents, formulas, algorithms, etc. related to the disaggregation process in an effort to determine if there are documents responsive to your request, including formulas used to take the election data from precinct level down to block level. He has not responded, and as we have said before, we do not have any responsive documents. We will continue to attempt to reach him and try to get an answer.
3. The dates/times for depositions were emailed yesterday. Phil/Ernest, apologies for leaving you off the email (no idea how that happened). Please let us know when will share any exhibits for the depositions.

Thank you,

Heather

815-762-2629

From: Heather Wier Vaught <heather@wiervaught.com>

Date: Thursday, October 28, 2021 at 9:49 PM

To: Joe Greenbaum <jgreenbaum@lawyerscommittee.org>, Ezra Rosenberg <erosenberg@lawyerscommittee.org>, Jim Tucker <jtucker@lawyerscommittee.org>, Ryan Snow <rsnow@lawyerscommittee.org>, Neel Chablani <achablani@clccrul.org>, Ami Gandhi <agandhi@clccrul.org>, Cliff Helm <chelm@clccrul.org>, <jdrayton@cooley.com>, <mkutcher@cooley.com>, <ewright@cooley.com>, <zillinoisredistrictingexternal@cooley.com>, "Elizabeth.Yandell@lw.com" <Elizabeth.Yandell@lw.com>, Adam Vaught <avaught@hinshawlaw.com>, Michael Kasper <mjkasper60@mac.com>, "Devon C. Bruce" <dbruce@powerrogers.com>, "sean.berkowitz@lw.com" <sean.berkowitz@lw.com>, "Colleen.Smith@lw.com"

EXHIBIT 6

Phil Luetkehans

From: Panoff, Thomas <TPanoff@mayerbrown.com>
Sent: Wednesday, September 22, 2021 4:51 PM
To: Elizabeth.Yandell@lw.com; Brian Armstrong; Phil Luetkehans; Comstock, Christopher; Holzrichter, Mitchell D.; rmeza@meza.law
Cc: AVaught@hinshawlaw.com; cohagan@hinshawlaw.com; mjkasper60@mac.com; Sean.Berkowitz@lw.com; Colleen.Smith@lw.com; heather@wiervaught.com; Sheridan.Caldwell@lw.com; Miri.Gold@lw.com; Tyler.Bridegan@lw.com; dbruce@powerrogers.com; sdalton@powerrogers.com; eherrera@MALDEF.org; FFernandez-delCastillo@MALDEF.org; Gvegasamuel@MALDEF.org; Harris II, Charles E.
Subject: RE: McConchie et al v. Illinois State Board of Elections et al

Following up on our call that ended shortly ago, below are the two categories of what we agreed to provide on behalf of the *McConchie* plaintiffs:

- **Districts for narrowing second set of discovery requests:**
 - House Districts: 1, 2, 3, 4, 6, 7, 8, 19, 21, 22, 23, 24, 32, 39, 40, 49, 50, 77, 83, 84, 113, 114
 - Senate Districts: 1, 2, 3, 4, 10, 11, 12, 16, 20, 25, 39, 43, 57
- **RFP Deferral:**
 - We'll agree to defer RFP Nos. 2, 3, 4, 11 and 16 by placing them on the track and timing for Category No. 3 in the Court's Sept. 8 Order (Dkt. 97). Since we chose not to serve any Category No. 3 RFPs or interrogatories to make the discovery process as efficient as possible, this proposal seems more than reasonable to us.

Please let us know if you have any questions or would like to discuss further.

Tom

From: Elizabeth.Yandell@lw.com <Elizabeth.Yandell@lw.com>
Sent: Tuesday, September 21, 2021 6:50 PM
To: Panoff, Thomas <TPanoff@mayerbrown.com>; bja@lbgalaw.com; pal@lbgalaw.com; Comstock, Christopher <CComstock@mayerbrown.com>; Holzrichter, Mitchell D. <MHolzrichter@mayerbrown.com>; rmeza@meza.law
Cc: AVaught@hinshawlaw.com; cohagan@hinshawlaw.com; mjkasper60@mac.com; Sean.Berkowitz@lw.com; Colleen.Smith@lw.com; heather@wiervaught.com; Sheridan.Caldwell@lw.com; Miri.Gold@lw.com; Tyler.Bridegan@lw.com; dbruce@powerrogers.com; sdalton@powerrogers.com; eherrera@MALDEF.org; FFernandez-delCastillo@MALDEF.org; Gvegasamuel@MALDEF.org; Harris II, Charles E. <CHarris@mayerbrown.com>
Subject: RE: McConchie et al v. Illinois State Board of Elections et al

****EXTERNAL SENDER****

Hi all,

Defendants are available to meet and confer on our discovery responses tomorrow between 2-3:30 CT. Please let us know if this time works, and if so, send around your preferred dial-in.

Thank you,
Libby

PS: Charles, apologies for our inadvertently missing your email on the service list; we have updated our list for the future.

From: Yandell, Elizabeth (Bay Area) <Elizabeth.Yandell@lw.com>
Sent: Tuesday, September 21, 2021 10:49 AM
To: Panoff, Thomas <TPanoff@mayerbrown.com>; bja@lbgalaw.com; pal@lbgalaw.com; Comstock, Christopher <CComstock@mayerbrown.com>; Holzrichter, Mitchell D. <MHolzrichter@mayerbrown.com>; rmeza@meza.law
Cc: AVaught@hinshawlaw.com; cohagan@hinshawlaw.com; mjkasper60@mac.com; Berkowitz, Sean (CH) <Sean.Berkowitz@lw.com>; Smith, Colleen (SD) <Colleen.Smith@lw.com>; heather@wiervaught.com; Caldwell, Sheridan (Bay Area) <Sheridan.Caldwell@lw.com>; Gold, Miri (CC) <Miri.Gold@lw.com>; Bridegan, Tyler (DC) <Tyler.Bridegan@lw.com>; dbruce@powerrogers.com; sdalton@powerrogers.com; Ernest Herrera <eherrera@MALDEF.org>; Francisco Fernandez-del Castillo <FFernandez-delCastillo@MALDEF.org>; Griselda Vega Samuel <Gvegasamuel@MALDEF.org>; Harris II, Charles E. <CHarris@mayerbrown.com>
Subject: RE: McConchie et al v. Illinois State Board of Elections et al

Hi Tom,

Our group won't all be available at 1pm CT today. We're working on identifying times tomorrow and will send those through this afternoon.

Thanks very much and we look forward to discussing.

Libby

From: Panoff, Thomas <TPanoff@mayerbrown.com>
Date: Tuesday, Sep 21, 2021, 7:53 AM
To: Yandell, Elizabeth (Bay Area) <Elizabeth.Yandell@lw.com>; bja@lbgalaw.com <bja@lbgalaw.com>; pal@lbgalaw.com <pal@lbgalaw.com>; Comstock, Christopher <CComstock@mayerbrown.com>; Holzrichter, Mitchell D. <MHolzrichter@mayerbrown.com>; rmeza@meza.law <rmeza@meza.law>
Cc: AVaught@hinshawlaw.com <AVaught@hinshawlaw.com>; cohagan@hinshawlaw.com <cohagan@hinshawlaw.com>; mjkasper60@mac.com <mjkasper60@mac.com>; Berkowitz, Sean (CH) <Sean.Berkowitz@lw.com>; Smith, Colleen (SD) <Colleen.Smith@lw.com>; heather@wiervaught.com <heather@wiervaught.com>; Caldwell, Sheridan (Bay Area) <Sheridan.Caldwell@lw.com>; Gold, Miri (CC) <Miri.Gold@lw.com>; Bridegan, Tyler (DC) <Tyler.Bridegan@lw.com>; dbruce@powerrogers.com <dbruce@powerrogers.com>; sdalton@powerrogers.com <sdalton@powerrogers.com>; Ernest Herrera <eherrera@MALDEF.org>; Francisco Fernandez-del Castillo <FFernandez-delCastillo@MALDEF.org>; Griselda Vega Samuel <Gvegasamuel@MALDEF.org>; Harris II, Charles E. <CHarris@mayerbrown.com>
Subject: RE: McConchie et al v. Illinois State Board of Elections et al

Thank you. Copying the MALDEF team as well as my partner, Charles Harris (he has been inadvertently left off the last few emails from Latham).

Please let us know if you are free at 1:00 pm CT today for a meet and confer to discuss your responses.

Tom

Thomas V. Panoff
Partner

Mayer Brown LLP
71 South Wacker Drive
Chicago, Illinois 60606 United States of America
T +1 312 701 8821
mayerbrown.com

From: Elizabeth.Yandell@lw.com <Elizabeth.Yandell@lw.com>

Sent: Monday, September 20, 2021 11:10 PM

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Subject: McConchie et al v. Illinois State Board of Elections et al

****EXTERNAL SENDER****

Counsel,

Please find attached Defendants' responses and objections to Plaintiffs' second set of discovery requests. Defendants designate these responses confidential.

Best,
Libby

Libby Yandell

Pronouns: she/her/hers

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